

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
CARIDAD ST. GERMAIN,

— Plaintiff,

-against-

OTTO FERMIN,

Defendants.
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**PLAINTIFF'S RESPONSE
TO INTERROGATORIES**

CV-07-3766
Judge Batts

PLEASE TAKE NOTICE, that **CARIDAD ST. GERMAIN** as and for her answer to defendant **OTTO FERMIN** set of interrogatories, being duly sworn, says and deposes:

1. State the date and approximate time of the day of the occurrence and the location at which the occurrence took place..

The accident occurred on March 9, 2007 at approximately 9:44A.M. on University Avenue near Burnside Avenue Bronx, New York.

2. Set forth a general statement of the acts or omissions constituting the negligence Plaintiff claims on the part of the Defendant .

Defendant, was negligent in causing and permitting the 1996 Lincoln motor vehicle bearing New York license plate number T460514C (the "Lincoln") to come into contact with plaintiff, CARIDAD ST. GERMAIN; in driving carelessly; in proceeding at an excessive rate of speed; in failing to have the Lincoln under proper management, operation and control; in failing to provide and/or equip and/or make use of and/or keep in proper working order and/or permit timely use of adequate and efficient brakes and/or braking mechanisms; in failing to make prompt, proper and timely use of the steering mechanism of the Lincoln; in failing to maintain the braking and steering mechanism of the Lincoln in proper and adequate condition or repair; in failing to observe the road; in violating those

rules, regulations and statutes in such cases made and provided and in further violating the provisions of the Vehicle and Traffic Law and the traffic regulations of the City and State of New York; and in failing to avoid contact.

3. If it will be claimed that the Defendant violated any laws, rules, regulations, and/or ordinances, set forth which laws, rules, regulations and/or ordinances Plaintiff claims were violated.

The defendants violated, including but not limited, sections, 1146, 1180 and 1151 of the Vehicle and Traffic Law.

4. Set forth the nature, extent, location and duration of each injury alleged to have been sustained by each Plaintiff.

Right Proximal Fibular Fracture

Contusions to both the right and left knees; left knee patellar crepitation on range of motion with soft tissue swelling medially; right knee pain at the proximal fibular.

Left Bundle Block

Loss of Consciousness

5. State in detail the manner in which the injured Plaintiff claims to have sustained a serious injury as defined in section 5102 (2) of the Insurance Law of the State of New York.

Plaintiff, CARIDAD ST. GERMAIN, has sustained serious injuries as defined in subdivision (d) of section 5102 of the Insurance Law, as follows:

-Fracture

-Permanent loss of use of a body organ, member, function or system; permanent consequential limitation of use of body organ or member; significant limitation of use of a body function or system; and a medically determined injury, which prevents plaintiff from performing substantially all of his usual and customary daily activities for at least 90 days during the 180 days immediately following the accident.

6. Set forth the date that each injured Plaintiff was:

A) confined to hospital including emergency room care:

St. Barnabas Hospital Intensive Care Unit 3/9/07-3/14/07

B-C) Confined to bed and house;

Intermittently to date

D) incapacitated from school and/or employment

Not applicable

7. Set forth the amounts claimed by Plaintiff for special damages;

A) physicians' services;

**Dr. Chalyaporn Kulsakdinun
Montefiore Medical Center
Dept. of Orthopedic Surgery
To Be Supplied**

**Dr. John Galeno
222 Westchester Avenue
Suite # 204
White Plains, N.Y.
To Be Supplied**

B) nurses' services (**Included in D**)

C) medical supplies **-To Be Supplied** If Any

D) hospital expenses- **St. Barnabas Hospital -\$26,833.52**

E) loss of earnings - **None**

F) other. (**To Be Supplied If Any**)

8. State with regard to the injured Plaintiff:

A) name and address of employer

B) nature of employment including duties customarily performed by Plaintiff;

C) wages or salary (gross) per week or month

Plaintiff is a retired lab technician

D) name and address of school attended if Plaintiff was a student at the time of the accident - **Not Applicable**

CARIDAD ST. GERMAIN

Sworn to before me this

____ day of _____, 2007

Notary Public

TO:Law offices of Nancy L. Isserlis
Attorneys for Defendant
36-01 43rd Avenue
Long Island City, New York 11101
(718)361-1514

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X

CARIDAD ST. GERMAIN,

ANSWER OR RESPONSE TO
Plaintiff(s),

PLAINTIFF(S) COMBINED

REQUEST FOR PRODUCTION
OF DOCUMENTS OF
DEFENDANT(S)

-against-

OTTO FERMIN

Index No.: CV-07-3766

Defendants.

-----X

S I R (S):

PLEASE TAKE NOTICE, that plaintiff by her attorneys, LOSCALZO & LOSCALZO, P.C., as and for plaintiff(s) combined answer or response to the combined demands of defendant, OTTO FERMIN, respectfully submits, upon information and belief, as follows:

1. To Be Supplied

2. Plaintiff's response to Defendant's request for authorizations with respect to injuries and damages claimed to have been sustained in the accident which forms the basis of this lawsuit.

A) No fault file (see attached authorization-Hereford Insurance)

B) Hospital Records (see attached authorization St. Barnabas Hospital)

C) Medical Records (see attached authorizations Dr. Chalyaporn Kulsakdinun and Dr. John Galeno)

D) Employment records (Plaintiff retired Not Applicable).

E) Tax records (Not Applicable)

F) Worker's Compensation (Not Applicable)

G) X-Rays, MRI, CT Scan film (Included in B)

H) Other Tests performed (To Be Supplied If Any)

I) Collateral Source Records or Reports (Included in A)

3. Not Applicable

4. Plaintiff is not in possession of any statements.

5. Plaintiff knows of no witnesses at this time. If subsequent investigation reveals otherwise you shall be so informed.

6. Plaintiff is not in possession of any photographs at this time.

7. Not Applicable

PLEASE TAKE FURTHER NOTICE, that plaintiff hereby reserve the right to supplement this answer or response to the combined demands of defendant.

DATED: NEW YORK, NEW YORK
July 24, 2007

Yours, etc.,

LOSCALZO & LOSCALZO, P.C.,
(Attorneys for Plaintiff)

By:_____

MICHAEL S. KAHER ESQ.
14 East 4th Street, Suite #408
New York, New York 10012
(212) 505-9080
File No.: MSK-16485

TO: LAW OFFICES OF NANCY L. ISSERLIS
(Attorney for Defendants)
OTTO FERMIN
36-01 43rd Avenue
Long Island City, New York 11101
(718) 361-1514

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X

CARIDAD ST. GERMAIN,

COMBINED DEMANDS

Plaintiff,

-against-

OTTO FERMIN

Index No.: CV-07-3766

Defendants.

-----X

S I R S:

PLEASE TAKE NOTICE, that the undersigned hereby makes the following demands upon you, pursuant to CPLR ARTICLE 31:

NAMES AND ADDRESSES OF [All] WITNESSES;

STATEMENT OF PARTY REPRESENTED BY UNDERSIGNED;

INSURANCE POLICY;

PHOTOGRAPHS, VIDEO TAPES, FILMS, AUDIO OR VISUAL;

ACCIDENT REPORTS; and

EXPERT WITNESS

NAMES AND ADDRESSES OF WITNESSES

PLEASE TAKE NOTICE that the undersigned demands, pursuant to CPLR 3101(a) and Hoffman v. Ro-San Manor, 73 A.D. 2d 207, (1st Dept) 1980 that you set forth in writing and under oath, the name and address of each person known or claimed by you or any party you represent in this action to be a witness to any of the following:

(a) The occurrence alleged in the complaint; or

(b) Any acts, omissions or conditions which allegedly caused the occurrence alleged in the complaint; or

(c) Any actual notice allegedly given to the defendants answering herein of any condition which allegedly caused the occurrence alleged in the complaint; or

(d) The nature and duration of any alleged condition which allegedly caused the occurrence alleged in the complaint; or

(e) Any admissions of the plaintiff or its agents or employees; or

(f) Any fact bearing on any of the liability issues in this case.

STATEMENT OF A PARTY REPRESENTED
BY THE UNDERSIGNED

PLEASE TAKE NOTICE, that the undersigned demands upon behalf of each party represented by him in this action that you produce at the time and place herein specified and permit the undersigned to discovery, inspection and copying of each and every statement made or taken by each such party and/or its agents, servants or employees now in your possession, custody or control or in the possession, custody or control of any party you represent in this action, if any, such statement in any matter bears on the issues in this action. If no such statements are in the possession, custody or control of any parties you represent in this action, so state in the sworn reply to this demand.

INSURANCE POLICY

PLEASE TAKE NOTICE, that defendant(s) produce, pursuant to Section 3101(f) of the CPLR, the following information:

(a) The names and addresses of any and all insurance companies which insure the defendant(s) represented by you either directly or indirectly in connection with the accident, which is the basis for the above-captioned lawsuit;

(b) The names and addresses of any and all excess or additional insurance companies covering this accident; and

(c) The amount of coverage of each such primary and excess policy.

PHOTOGRAPHS, VIDEO TAPES, FILMS, AUDIO OR VISUAL

____ PLEASE TAKE NOTICE, that the undersigned demands on behalf of each and every party represented by it in this action, that pursuant to Section 3101 et seq., you produce at the time and place herein specified and permit the undersigned to discovery, inspect and copy:

(a) Any and all photographs taken of the alleged scene or place of occurrence complained of which are now in your possession, custody and control, or in the possession, custody

and control of any party you represent in this action, if such photograph in any manner bears upon the issues in this action;

(b) If a motor vehicle is involved in this action, then any and all photographs taken of said vehicles which are in your possession, custody and control of any party you represent in this action, if such photograph in any manner bears upon the issues in this action; and

(c) Any and all surveillance tapes/films, audio and/or visual, of the plaintiff in your possession, custody or control.

ACCIDENT REPORTS

True and complete copies of all accident reports regarding the subject incident prepared by or on behalf of the defendant(s), its agents, servants or employees, or based upon any information supplied by the foregoing entities or individuals prepared in the regular course of business operations or practices of any person, firm, corporation, association or other public or private entity.

EXPERT WITNESS CPLR 3101 (d) (i) DEMAND

PLEASE TAKE NOTICE, that pursuant to CPLR 3101 (d) (i), you are hereby requested to provide the undersigned with:

(1) The name and address of each person you expect to call as an expert witness at the trial of this action;

(2) The qualifications of each expert;

(3) The subject matter on which each expert is expected to testify;

(4) The facts and opinions on which each expert is expected to testify;

(5) The grounds for each expert's opinion.

If none of the above items exist, so state in a sworn reply to this demand.

The foregoing demand is a continuing one, and if such items are obtained subsequent to the service of this demand, such items are to be furnished to the undersigned pursuant to this demand.

The undersigned will object at the time of trial of this action to the use of any such items not provided for any purpose.

Said discovery is to be produced within thirty (30) days from the date of this notice in the office of undersigned, Suite 408,
14 East 4th Street, New York, New York.

PLEASE TAKE FURTHER NOTICE, that a written communication enclosing the aforementioned information may be sent prior to the above mentioned time in lieu of a personal appearance on the above date.

DATED: NEW YORK, NEW YORK
July 24, 2007

Yours, etc.,

LOSCALZO & LOSCALZO, P.C.,
(Attorneys for plaintiff)

By:_____

MICHAEL S. KAHER, ESQ.
14 East 4th Street, Suite #408
New York, New York 10012
(212) 505-9080
File No.: MSK-16485

TO: LAW OFFICES OF NANCY L. ISSERLIS
(Attorney for Defendants)
OTTO FERMIN
36-01 43rd Avenue
Long Island City, New York 11101
(718) 361-1514

AFFIDAVIT OF SERVICE

STATE OF NEW YORK)
) **ss.:**
COUNTY OF NEW YORK)

John T. Guza, being duly sworn, deposes and says:

I am not a party to this action, am over the age of 18 years and reside at Staten Island, New York.

On July 24, 2007, I served a true copy of the annexed:

**PLAINTIFF'S REPSONSE TO INTERROGATORIES, RESPONSE TO DEMANDS
AND COMBINED DEMANDS.**

by mailing the same in a sealed envelope, with postage prepaid thereon, in an official depository of the U.S. Postal Service within the State of New York, addressed to the last known address of the addressee(s) as indicated below:

TO:Law Offices of Nancy L. Isserlis
 (Attorney for Defendant)
 OTTO FERMIN
 36-01 43rd Avenue
 Long Island City, N.Y. 11101

Sworn to before me this

24th day of July, 2007

JOHN T. GUZA

NOTARY PUBLIC

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
CARIDAD ST. GERMAIN,

Plaintiff(s),

-against-

CV-07-3766

OTTO FERMIN,

Defendant(s).

-----X

Certification

I, **Michael S. Kafer**, am the attorney fully familiar with the facts and circumstances of the above-entitled matter. I certify that the Plaintiff's Response to Interrogatories were signed by plaintiff, **CARIDAD ST. GERMAIN** and notarized by Max. G. Gaujean on July 13, 2007 and that the original signed and notarized Response to Interrogatories is contained in my file and available for inspection upon request.

Dated: New York, New York

July 24, 2007

MICHAEL S. KAFER, ESQ. (3618)

COUNSEL'S AFFIRMATION

MICHAEL S. KAFER, an attorney duly admitted to practice law before this Court and the Courts of the State of New York, affirms to the following under penalties of perjury:

I am the attorney of record for plaintiff CARIDAD ST. GERMAIN, and submit this affirmation along with the affidavit of service.

The original affidavit of mailing with the signature of John T. Guza and notary by Alan S. Berkowitz will be kept in my file should the Court or counsel wish to see it.

Dated: New York, New York
July 24, 2007

BY: _____
MICHAEL S. KAFER (MSK 3618)